



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

[Handwritten signature]

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/721,091	11/22/2000	W. Vincent Quintana	10001-29675	2182

7590 06/24/2004

Jenner & Block
Patent and Trademark Docket Clerk
41st Floor, One IBM Plaza
Chicago, IL 60611

EXAMINER

MOE, AUNG SOE

ART UNIT PAPER NUMBER

2612

DATE MAILED: 06/24/2004

[Handwritten signature]

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/721,091

Applicant(s)

QUINTANA ET AL.

Examiner

Aung S. Moe

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-52 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 2-52 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 2-30 and 36-52 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 49-51 of U.S. Patent No. 6,522,531.

Regarding claims 2-30, although the conflicting claims are not identical, they are not patentably distinct from each other because both claims 49-51 of U.S. Patent No. 6,522,531 and claims 2-30 of the instant application recite an apparatus for enabling a collaborative work environment between a first person at a first location and a second person at a second location (i.e., see claim 40 of U.S. Patent No. 6,522,531).

In particular, both claim 49 of U.S. Patent No. 6,522,531 and claim 2 of the instant application recite an apparatus for enabling a collaborative work environment between a first person at a first location and a second person at a second location (i.e., see the preamble part of claim 49 of Pat '531), comprising: a first camera adapted to obtain

Art Unit: 2612

first imagery relevant to an object (i.e., see line 5 of claim 49 of Pat. '531); a second camera adapted to obtain second imagery relevant to an object (i.e., noted the second camera of claim 49 of Pat. '531); a microphone, and a speaker (i.e., noted the Headset part of the claim 49 of Pat. '531); a computer adapted to store and to process data and adapted to be worn on a user's body (i.e. noted the computer limitations of claim 49 of Pat. '531); a first communications channel connecting said computer and said first camera (i.e., noted the first communications channels as recited in claim 49 of Pat. '531); a second communications channel connecting said computer, said microphone and said speaker (i.e., noted the second communications as recited in claim 49 of Pat. '531); a third communications channel connecting said computer and said first display unit (i.e., noted the third communications channel connecting as recited in claim 49 of Pat. '531); a forth communication channel connecting said computer and a remote data processor, said remote data processor adapted to receive data from and transmit data to said computer (i.e., noted the forth communication channel as recited in claim 49 of Pat. '531); and a fifth communication channel connecting said computer and said second camera (i.e., noted the forth communications as recited in claim 49 of Pat. No. '531).

Moreover, both claims 3, 4, 5 and 13 of the instant application and the claims 49-51 of U.S. Patent No. 6,522,531 recited the use of a battery adapted to provide power to the computer and the display device (i.e., see claim 50 of U.S. Patent No. 6,522,531); a headset (i.e., see claim 49 of U.S. Patent No. 6,522,531); and a harness (i.e., noted the a support system as recited in claim 49 of U.S. Patent No. 6,522,531).

As for claims 6-12 and 14-30, it is noted that the limitations recited in claims 6-12 and 14-30 of the instant application is considered obvious modification to one having

Art Unit: 2612

ordinary skilled in the art, thus, the Examiner takes an "Office Notice" that such changes and modification will be suggested to one skilled in the art and claims 49-51 encompass such changes and modifications as recited in claims 6-12 and 14-30 of the instant application.

Therefore, it is noted that allowing the claims 2-30 of the instant application would result in an unjustified or improper timewise extension of the "right to exclude" granted by a patent.

Regarding claims 36-52, it is noted that although the conflicting claims are not identical, they are not patentably distinct from each other because the apparatus claims 49-51 of U.S. Patent No. 6,522,531 is capable of performing the method as recited in the claims 36-52 as recited in present claimed invention.

In particular, claim 49 of U.S. Pat. '531 recite a wearable apparatus (i.e., noted the support system of claim 49 of U.S. Pat. '531) for enabling a collaborative work environment between a first person at a first location and a second person at a second location (i.e., see claim 40 of U.S. Patent No. 6,522,531), and comprising: a first camera, a second camera, a first display, a headset, a computer, a support system and first thru fifth communication channels, thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to locate the wearable apparatus to an object for obtaining first imagery and second imagery with the first camera, and storing the first imagery and the second imagery (i.e., noted that the computer of the apparatus as recited in claim 49 of U.S. Pat. '531 is capable of storing image captured by the first and second cameras); and displaying on a first display unit (i.e., noted the first display unit as

Art Unit: 2612

recited in claim 49 of U.S. Pat. '531) at least one of the first imagery and said second imager as recited in present claimed invention.

Furthermore, it is noted that the limitations recited in claims 37-52 of the instant application is considered obvious modification to one having ordinary skilled in the art, thus, the Examiner takes an "Office Notice" that such changes and modification will be suggested to one skilled in the art and claims 49-51 encompass such changes and modifications as recited in claims 37-52 of the instant application.

Therefore, it is noted that allowing the claims 36-52 of the instant application would result in an unjustified or improper timewise extension of the "right to exclude" granted by a patent.

3. Claims 31-35 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 49-51 of U.S. Patent No. 6,522,531 in view of Mann (U.S. 6,307,526).

Regarding claims 31-35, although the conflicting claims are not identical, they are not patentably distinct from each other because both claims 49-51 of U.S. Patent No. 6,522,531 and claims 31-35 of the instant application recite an apparatus for enabling a collaborative work environment between a first person at a first location and a second person at a second location (i.e., see claim 40 of U.S. Patent No. 6,522,531).

In particular, both claim 49 of U.S. Patent No. 6,522,531 and claim 31 of the instant application recite an apparatus for enabling a collaborative work environment between a first person at a first location and a second person at a second location (i.e., see the preamble part of claim 49 of Pat '531), comprising: a first camera adapted to obtain

Art Unit: 2612

first imagery relevant to an object (i.e., see line 5 of claim 49 of Pat. '531); a second camera adapted to obtain second imagery relevant to an object (i.e., noted the second camera of claim 49 of Pat. '531); a microphone, and a speaker (i.e., noted the Headset part of the claim 49 of Pat. '531); a computer adapted to store and to process data and adapted to be worn on a user's body (i.e. noted the computer limitations of claim 49 of Pat. '531); a first communications channel connecting said computer and said first camera (i.e., noted the first communications channels as recited in claim 49 of Pat. '531); a second communications channel connecting said computer, said microphone and said speaker (i.e., noted the second communications as recited in claim 49 of Pat. '531); a third communications channel connecting said computer and said first display unit (i.e., noted the third communications channel connecting as recited in claim 49 of Pat. '531); a forth communication channel connecting said computer and a remote data processor, said remote data processor adapted to receive data from and transmit data to said computer (i.e., noted the forth communication channel as recited in claim 49 of Pat. '531); and a fifth communication channel connecting said computer and said second camera (i.e., noted the forth communications as recited in claim 49 of Pat. No. '531); and a harness (i.e., noted the use of "a support system" as recited in claim 49 of U.S. Pat. '531) adapted to carry at least one of said first camera, said second camera, said computer, and said display unit.

Moreover, both claims 32 and 33 of the instant application and the claims 49-51 of U.S. Patent No. 6,522,531 recited the use of a battery adapted to provide power to the computer and the display device (i.e., see claim 50 of U.S. Patent No. 6,522,531); a headset (i.e., see claim 49 of U.S. Patent No. 6,522,531).

Art Unit: 2612

Furthermore, it is noted that claim 49-51 of U.S. Pat. '531 does not explicitly stated that wherein said first field of view is wider than said second field of view as recited in claim 31 of instant application.

However, Mann '526 teaches that it is conventionally well known to use a first camera having a first field of view, which is wider than the second camera having a second field of view (i.e., see col. 11, lines 30+ of Mann '526) for enabling a collaborative work environment between a first person and a second person located at the different location (col. 16, lines 55+ of Mann '526). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a camera system as taught by Mann '526, since Mann '526 states in col. 5, lines 50+ that such a modification would allow a user to capture a plurality of images of the same scene or objects, thereby a good composition can be realized.

As for claims 32-35, it is noted that the limitations recited in claims 32-35 of the instant application is considered obvious modification to one having ordinary skilled in the art, thus, the Examiner takes an "Office Notice" that such changes and modification will be suggested to one skilled in the art and claims 49-51 encompass such changes and modifications as recited in claims 32-35 of the instant application.

Therefore, it is noted that allowing the claims 31-35 of the instant application would result in an unjustified or improper timewise extension of the "right to exclude" granted by a patent.

Art Unit: 2612

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 36-52 rejected under 35 U.S.C. 102(e) as being anticipated by Mann (U.S. 6,307,526).

Regarding claim 36, Mann '526 discloses a method for using a wearable computer (Figs. 1 and 2; col. 12, lines 20+) to enable at least **one of** collaborative design and problem resolution (i.e., col. 17, lines 1-30) between a first person at a first location and a second person at a second location (i.e., col. 16, lines 55+), comprising the steps of:

locating said wearable computer proximate to an object (i.e., noted that the cameras 110 and 120 must be placed near the object to capture the images; see col. 11, lines 30+ and Figs. 10 and 7);

obtaining first imagery relevant to said object (i.e., noted the camera 110, 530 & 730 as shown in Figs. 1, 2, 5, 7, 9 and 10; col. 11, lines 30+, col. 21, lines 25+ and col. 23, lines 10+); storing said first imagery in said wearable computer (i.e., noted that the element 128/228 contain a storage means for storing images captured by the first and second cameras; see col. 11, lines 30+ and col. 12, lines 25+); obtaining second imagery relevant to said object (i.e., noted the use of second camera 120, 540, and 731 as shown in Figs. 1, 2, 5 and 9; col. 11, lines 30+, col. 21, lines 25+ and col. 23, lines 10+); storing said second imagery in said wearable computer (i.e., noted that the element 128/228

Art Unit: 2612

contain a storage means for storing images captured by the first and second cameras; see col. 11, lines 30+ and col. 12, lines 25+); and displaying on a first display unit (i.e., noted the display unit 160, 210, 340, 550 and 560 as shown in Figs. 1, 2, 3, and 5; col. 12, lines 55+) at least **one of** said first imagery and said second imagery (i.e., see col. 12, lines 55+ and col. 20, lines 35+).

Regarding claim 37, Mann '526 discloses the step of annotating at least **one of** said first imagery and said second imagery on said first display unit (i.e., Figs. 1c; col. 12, lines 55+; col. 14, lines 20 - col. 15, lines 10; and col. 20, lines 35+).

Regarding claim 38, Mann '526 discloses wherein said second imagery has a narrower field of view than said first imagery (i.e., col. 11, lines 30+; and col. 20, lines 35+).

Regarding claim 39, Mann '526 discloses the step of transmitting at least **one of** said first imagery and said second imagery to another computer at said second location (i.e., col. 12, lines 30+, col. 13, lines 30+, col. 16, lines 55+).

Regarding claim 40, Mann '526 discloses the step of displaying at least one of said first imagery and said second imagery at said other location to said second individual (i.e., col. 16, lines 50+).

Regarding claim 41, Mann '526 discloses the step of said first person collaborating with said second person (i.e., see col. 16, lines 50+).

Regarding claim 42, Mann '526 discloses the step of collaborating is accomplished through said wearable computer (i.e., col. 12, lines 15+ and col. 16, lines 50+).

Art Unit: 2612

Regarding claim 43, Mann '526 discloses wherein the result of said collaborating can be stored for further reference (i.e., col. 3, lines 35+ and col. 12, lines 25+).

Regarding claim 44, Mann '526 discloses the step of said first person collaborating in real time with said second person (i.e., col. 16, lines 50 – col. 17, lines 30).

Regarding claim 45, Mann '526 discloses the step of collaborating is accomplished through said wearable computer (i.e., col. 12, lines 15+ and col. 16, lines 50+).

Regarding claim 46, Mann '526 discloses the result of said collaborating can be stored for further reference (i.e., col. 3, lines 35+ and col. 12, lines 25+).

Regarding claim 47, Mann '526 discloses the step of receiving from another location information concerning said object (i.e., col. 16, lines 50 – col. 17, lines 30+; col. 26, lines 30+).

Regarding claim 48, Mann '526 discloses said information includes technical information concerning said object (i.e., see col. 17, lines 1-30).

Regarding claim 49, Mann '526 discloses said information is display on said first display unit (i.e., see Figs. 1c, & 1d; col. 17, lines 1-30 and col. 26, lines 30+).

Regarding claim 50, Mann '526 discloses wherein said first display unit is interactive such that a user can annotate data display thereon (i.e., col. 14, lines 25 – col. 15, lines 35).

Regarding claim 51, Mann '526 discloses the step of displaying data relevant to said object on a second display unit (i.e., noted the use of tow display units as shown in Fig. 5; see col. 20, lines 40+).

Art Unit: 2612

Regarding claim 52, Mann '526 discloses the step of displaying data relevant to said object on a second display unit (i.e., Fig. 5, the display units 550 and 560), wherein said second display unit is configured so that said user can view said object and said data on said second display unit simultaneously (i.e., see col. 20, lines 35 – col. 21, lines 65).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


- a. Mitchell '672, Winningstad '739, Strub '532, Kamijo '053, Wechsler '571, Abbott '174, and Fraley '498 show a wearable computer system having an image-capturing device thereof.
- b. Quintana '370 is a related application of the instant application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aung S. Moe whose telephone number is 703-306-3021. The examiner can normally be reached on Mon-Fri (9-5).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on 703-305-4929. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2612

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Aung S. Moe
Primary Examiner
Art Unit 2612

A. Moe
June 17, 2004